

## United States District Court

SEP 24 2011

SOUTHERN

DISTRICT OF

TEXAS

McALLEN DIVISION

Clerk of Court

UNITED STATES OF AMERICA

V.

## CRIMINAL COMPLAINT

Daniel Gerardo Avila-Monroy  
A200 882 281PRINCIPAL  
YOB: 1986

the United Mexican States

Case Number:

M-11- 2740 -M

(Name and Address of Defendant)

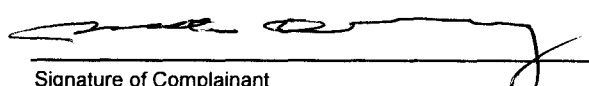
I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about September 23, 2011 in Hidalgo County, in the Southern District of Texas defendants(s) did,  
(Track Statutory Language of Offense)

knowing or in reckless disregard of the fact that David Moreno-Galicia, and Esau Molina-Saldana citizens and nationals of the united Mexican States and Chhoti Lama, a citizen and national of Nepal and five (5) other undocumented aliens for a total of eight (8), who had entered the United States in violation of law, did knowingly transport, or move or attempt to transport said aliens in furtherance of such violation of law within the United States, that is, from a location near Granjeno, Texas to the point of arrest near McAllen, Texas.

in violation of Title 8 United States Code, Section(s) 1324(a)(1)(A)(ii) FELONY  
I further state that I am a(n) U.S. Senior Border Patrol Agent and that this complaint is based on the following facts:

On September 23, 2011 at approximately 8:00 a.m., McAllen Border Patrol Agents assigned to All Terrain Vehicles (ATV) unit, A. Rodriguez and R. Garza were conducting line watch duties in Granjeno, Texas. During that time, Agents Rodriguez and Garza were following foot sign that had crossed north through the flood way east of FM 494 near a residential area in Granjeno. As Agents continued to follow the foot sign they heard the sound of vehicle doors slamming directly north of their location. Agents requested assistance and Agent N. Cantu who was also assigned to the ATV Unit responded to the traffic and observed a suspicious maroon four door sedan leaving the location. Agent N. Cantu advised agents near the area via radio about the direction of travel and description of the vehicle before losing visual. Agents J. E. Orta, V. Vela, J. Martinez, and J. L. Ochoa responded to assist.

Continued on the attached sheet and made a part of this complaint:

☒ Yes ☐ No
  
Signature of Complainant

Sworn to before me and subscribed in my presence,

Nestor Hernandez Senior Patrol Agent

Printed Name of Complainant

September 24, 2011  
Dateat McAllen, Texas  
City and StateDorina Ramos, U. S. Magistrate Judge  
Name and Title of Judicial Officer
  
Signature of Judicial Officer

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
McALLEN, TEXAS**

**ATTACHMENT TO CRIMINAL COMPLAINT:**

**M-11- -M**

**RE: Daniel Gerardo Avila-Monroy A200 882 281**  
the United

**CONTINUATION:**

A few minutes later, Air and Marine helicopter responded to assist after listening to the information via radio. The helicopter pilot A. Yankowsky advised mobile agents that he had spotted a vehicle matching the description and communicated that the vehicle was traveling north on Shary Road south of Expressway 83. The pilot advised the Agents the vehicle had traveled east bound on Expressway 83 until it reached Ware Road. At that time, Agent J. E Orta attempted to make a vehicle stop to conduct an Immigration check of the occupants. As Agent J. E. Orta activated his marked unit's emergency lights and siren equipment, the maroon vehicle failed to yield and a pursuit ensued.

Air Marine Pilot A. Yankowsky maintained visual of the suspect vehicle. Pilot Yankowsky stated to agents that the fleeing suspect vehicle had struck a sport utility vehicle as the driver attempted to turn south on 23rd Street from Expressway 83 East frontage Road. Agents J. L. Ochoa and J.E. Orta witnessed the vehicle turn into the Exxon convenient store at the intersection of 23rd Street and East Frontage Road. At that time, Agent J.E. Orta noticed the vehicle come to an abrupt stop at the Exxon parking lot. Two subjects were seen exiting the vehicle. The vehicle continued to move into a drive thru carwash located south of the Exxon where it struck an interior wall. Agent J.L. Ochoa approached the vehicle and saw the driver later identified as Daniel Gerardo AVILA-Monroy, exiting the driver side door of the vehicle and running North West from the convenient store carwash. The driver of the vehicle was described by Agent J.L. Ochoa as wearing a light colored t-shirt and shorts. Two subjects, who were in the front seat of the vehicle, later identified as two minors were seen running in the same North West direction.

The remaining subjects inside the passenger compartment and trunk of the vehicle ran out and attempted to elude apprehension. Agent J.L. Ochoa deployed his canine partner "Bravo" and secured the subjects who were exiting the vehicle.

Immediately after, Air Marine Pilot A. Yankowsky advised assisting agents of the direction of travel of three subjects that had bailed out of the vehicle. All subjects were subsequently apprehended.

Agent J.L. Ochoa conducted a canine search of the interior of the vehicle and advised Agent J. E. Orta that canine Bravo was alerting and indicating to the driver's side seat of the vehicle. A subsequent search of the vehicle revealed a small plastic bag with green leafy substance with the characteristics of marijuana. The narcotics were located under the driver's side front seat. No one claimed ownership of the marijuana.

All subjects were questioned as per their immigration status and all subjects claimed to be illegally present in the United States. Two of the subjects were determined to be unaccompanied juveniles from Mexico.

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**MIRANDA RIGHTS:**

Daniel Gerardo AVILA-Monroy, was advised as to his Miranda Rights verbally by Agent J.L. Ochoa at the time of arrest.

AVILA-Monroy was advised of his Miranda rights once again as per form I-214 by Agent J. E. Orta at the McAllen Border Patrol Station and stated and signed that he understood his rights and was willing to make a statement without the presence of an attorney.

**PRINCIPAL STATEMENT:**

Daniel Gerardo AVILA-Monroy, provided a Sworn Statement to being the driver of the vehicle in which several illegal aliens were being transported and to causing a traffic accident.

All material witnesses were read their Miranda Rights and stated that they were willing to make a statement without the presence of their attorney. Material Witness Chhoti Lama made a statement with the assistance of Language Line Service Interpreter Dinesh #13246.

**MATERIAL WITNESS RIGHTS/STATEMENT:**

1. David MORENO-Galicia, stated that the vehicle did not stop anywhere from the time they got in to the time of apprehension. MORENO was not able to identify the driver because he was ordered into the trunk of the vehicle by the brush guide.

**MATERIAL WITNESS RIGHTS/STATEMENT:**

2. Esau MOLINA-Saldana gave a sworn statement that he was being smuggled in the vehicle that was being driven by Daniel Gerardo AVILA-Monroy. MOLINA was able to identify AVILA as the driver of the vehicle.

**MATERIAL WITNESS RIGHTS/STATEMENT:**

3. Chhoti LAMA stated that she was being smuggled in a four door red sedan. Subject stated that the vehicle did not stop anywhere from the time they got in the vehicle to the time of apprehension. Subject also stated driver was wearing a white shirt and had short hair. Subject could not point out driver in the photo line up do to her not seeing the drivers face.

Checks revealed that the vehicle was reported stolen to Hidalgo County Sheriffs Office on September 16, 2011 in Mercedes, Texas.